Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
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Administrative Council for Terminal Attachments Petition for Rulemaking to Fortify the Network Protections of Part 68	)	RM-_____
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PETITION FOR RULEMAKING OF THE ADMINISTRATIVE COUNCIL FOR TERMINAL ATTACHMENTS

The Administrative Council for Terminal Attachments ("ACTA"), pursuant to Commission Rule 1.401,[1] hereby submits its "Petition for Rulemaking to Fortify the Network Protections of Part 68 ("Petition"). Created at the behest of the Commission and jointly sponsored by the Alliance for Telecommunications Industry Solutions ("ATIS") and the Telecommunications Industry Association ("TIA"), the ACTA plays the central role in preventing harm arising from terminal equipment connecting to the public switched telephone network ("PSTN"), the backbone of communications traffic both domestically and worldwide. In this Petition, the ACTA asks for a modest rule change to clarify the scope of Part 68 in order to ensure that the foundational principles of these rules in protecting the network and the public can continue to be met.

I. THE ROLE OF PART 68 IN PROTECTING THE NETWORK FROM HARM

Until the Commission established the Part 68 rules in 1975, terminal equipment, the customer premises equipment used to directly connect the customer to the PSTN, was manufactured largely by Western Electric. Western Electric was part of the Bell System of

[1] 47 C.F.R. § 1.401.

companies which enjoyed near monopoly control of the local exchange and long distance providers in the United States. In addition, FCC Tariff Number 132 held that "[n]o equipment, apparatus, circuit or device not furnished by the telephone company shall be attached to or connected with the facilities furnished by the telephone company, whether physically, by induction or otherwise."[2] Naturally, Western Electric ensured that the terminal equipment it manufactured did not cause harm to the PSTN or Bell personnel.

In 1968, the FCC issued its landmark *Carterphone* decision, abrogating Tariff Number 132, holding that "a customer desiring to use an interconnecting device to improve the utility to him of both the telephone system and a private radio system should be able to do so, so long as the interconnection does not adversely affect the telephone company's operations or the telephone system's utility for others."[3] Thus, the FCC struck a compromise, later embodied in the Part 68 rules it adopted in 1975, "whereby providers are required to allow terminal equipment manufactured by anyone to be connected to their networks, provided that the terminal equipment has been shown to meet the technical criteria for preventing network harm . . . ."[4]

As part of the original Part 68 rules, the FCC established the technical criteria to ensure that terminal equipment would not harm the PSTN and verified terminal equipment compliance. These rules defined "harm" as "[e]lectrical hazards to telephone company personnel, damage to telephone company equipment, malfunction of telephone company billing equipment, and degradation of service to persons other than the user of the subject terminal equipment, his calling or called party."[5] By protecting the network from harm caused by the connection of

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[2] AT&T Tariff, FCC No. 132.
[3] *Carter v. AT&T Co.*, 13 FCC 2d 420 (1968).
[4] *2000 Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations*, Report and Order, 15 FCC Rcd 24944, ¶ 7 (2000) ("*Part 68 Streamlining Order*").
[5] 47 C.F.R. § 68.3 (1978). In addition, the rules defined "terminal equipment" as "registered in accordance" with the FCC's Part 68 rules.

telephone terminal equipment and associated wiring, and providing for the compatibility of hearing aids and telephones, Part 68 allows millions of consumers, including those with disabilities, to access communications services, including 9-1-1 services.

II. THE ROLE OF THE ACTA

In 2000, the Commission's streamlining of Part 68 fostered a new era of innovative terminal equipment capable of connecting to the PSTN by directing the telecommunications industry, through the co-sponsorship and support of ATIS and TIA, to establish the ACTA.[6] The ACTA assumed a number of roles previously performed by the Commission, including: (1) the adoption of technical criteria and acting as the clearing-house for the publication of technical criteria for terminal equipment developed by ANSI-accredited standards development organizations; and (2) the establishment and maintenance of a publically accessible registration database of equipment approved as compliant with the technical criteria. The Commission retained sole responsibility for interpretation of the Part 68 rules and for enforcement of, and compliance with, the privatized functions. Moreover, under the *Order,* the Commission maintained direct oversight of the Part 68 rules concerning Hearing Aid Compatibility ("HAC"), volume control, consumer protection, and inside wiring.[7]

Since its inception, the ACTA has successfully fulfilled its role in preventing harm from terminal equipment and encouraging compliance with the Commission's Part 68 rules. The ACTA, however, believes that a change to Part 68 is necessary to ensure that these important rules can continue to effectively protect the PSTN from harm.

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[6] *Part 68 Streamlining Order*, ¶¶ 1-2.
[7] *Part 68 Streamlining Order*, ¶ 63.

III. THE PART 68 RULES MUST BE AMENDED TO ENSURE CONTINUED PROTECTION TO THE PUBLIC SWITCHED TELEPHONE NETWORK

As the Commission predicted in the *Part 68 Streamlining Order*, manufacturers have been able to "bring innovative consumer products" capable of connecting to the PSTN "to the market on an expedited basis."[8] Still, the *Order* balanced this speed with prudence, holding that "the advent of advanced technologies that push the limits of twisted copper pair capabilities [make] it . . . imperative [that] the Commission continue to maintain and enforce rules designed to prevent harms to the network."[9] Thus, the Part 68 rules strike an important balance between bringing advanced technology to market and preventing harm to the PSTN and telephone company personnel and, as a result, new equipment that is compliant with the technical standards to prevent harm can be brought to market quickly.

The advent of new equipment fostered by Part 68, however, has presented challenges. For example, many devices manufactured today are capable of connecting both to the PSTN and to other networks, such as those that use Internet Protocol ("IP").[10] These multi-connection devices – many of which are IP-enabled voice and data devices – include equipment that can directly connect to the PSTN, or to another device such as a PBX that directly connects to the PSTN. While it is not the ACTA's role to conduct market surveillance, the ACTA has previously presented to the Commission information on such devices, including Magic Jack.[11] Such devices are capable of causing the same harm to the PSTN as PSTN-only devices. Devices used to connect to the internet that are attached to the PSTN still use the existing PSTN loop and

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[8] *Id.*, ¶ 21.
[9] *Id.*, ¶ 15.
[10] Devices that connect or potentially can connect are those devices that have an RJ11, RJ14, RJ45, or RJ48 port or plug capable of direct connection to the PSTN.
[11] The ACTA has also noted that informal market surveillance by ACTA members led to the discovery of a number of "Wireless Life Alert systems" that are equipped with an RJ11 jack for connecting to the PSTN with supporting documentation for connection to the PSTN but had not been registered in the ACTA Database.

network inter-structure and can present interference and other problems. These IP devices may not be compliant with industry standards, such as ATIS' *Spectrum Management for Loop Transmissions Systems*,[12] that provide spectrum management requirements and recommendations for the administration of services and technologies that use metallic subscriber loop cables. As such, these devices may operate at power levels that can increase crosstalk noise on the PSTN.

In light of these challenges, the ACTA believes there is a need to clarify the existing rules to safeguard against harm to the PSTN and its personnel potentially caused by multi-connection devices. While the ACTA believes that the current Part 68 rules cover such multi-connection devices that are able to directly connect to the PSTN, there is some confusion in the industry regarding the applicability of the existing rules to multi-connection devices.[13] The ACTA has been approached by manufacturers, consumers and service providers with questions regarding Part 68 applicability to such devices. The ACTA therefore believes that, due to the ambiguous nature of the rules as currently written, many of these devices have not been tested and have not received terminal equipment approval under Part 68.

On that basis, the ACTA asks the Commission to pursue a rule change to Rule 68.3, the definition of terminal equipment, to codify the applicability of Part 68 to devices capable of connecting to the PSTN and other networks. This clarification will protect the telephone network and will ensure that consumers have access to reliable communications, particularly during emergencies. As the ACTA has previously noted, non-compliant telephone terminal equipment may prevent access to communications services, including emergency services (9-1-1).

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[12] ATIS-0600417.2003 (R2012).

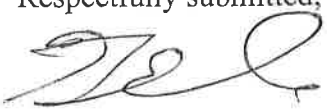
[13] *See also* Telecommunications Industry Association's *Petition for Rulemaking* (filed October 25, 2012) requesting that the Commission update references in Part 68 to TIA volume control standards at p. 16, n.27 ("We also believe that a Commission clarification that interconnected VoIP phones are a subset of the digital phones covered by § 68.317 would provide increased certainty and fairness to TE market participants.")

Finally, the ACTA notes that clarifying the scope of terminal equipment covered by Part 68 will also promote compliance with the FCC's Part 68 hearing aid compatibility (HAC) rules. By clarifying that VoIP equipment capable of connecting both to the PSTN and other networks must comply with the Part 68 of the Commission's rules, including Subpart G thereto, the Commission can remove any confusion that may exist on the part of manufacturers or importers regarding which sections of Part 68 apply to VoIP equipment. Moreover, as part of its equipment registration process, the ACTA specifically requests information on whether the equipment is HAC, which serves to further support compliance with the Commission's HAC rules.[14]

IV. CONCLUSION

For the foregoing reasons, ACTA asks that the Commission adopt a modest change to its Part 68 rules to clarify their applicability to terminal equipment capable of connecting to the PSTN and other networks.

Respectfully submitted,



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[14] *See, e.g.,* Telephone Terminal Equipment Submission Form Ver. 1.08, question 13b.

APPENDIX A

Proposed Rule

ACTA proposes to amend 47 CFR Part 68 as follows:

PART 68 – CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

Subpart A – General

§ 68.3 Definitions

Terminal Equipment: As used in this part, communications equipment located on customer premises at the end of a communications link, used to permit the stations involved to accomplish the provision of telecommunications or information services, **regardless of whether the equipment is also capable of connecting to other networks.**